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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,539	06/09/2000	Tina Marie Nielsen		3228

7590 02/28/2002  
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EXAMINER

ARNOLD III, TROY G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 02/28/2002

# 8

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**Application No.  
**09/591,539**Applicant(s)  
**Nielsen et al**Examiner  
**Troy Arnold**Art Unit  
**3728**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Jan 10, 2002
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☐ Notice of References Cited (PTO-892)                      18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_                      20) ☐ Other: \_\_\_\_\_

Art Unit:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 15, beginning in line 16, the phrase beginning "adapted to allow..." is functional, indefinite and recites no distinct structure. The "whereby" clause beginning in line 18 is also functional and indefinite; it is conditional and based on the indefinite term "use mode." These same two phrases appear in claim 25. In claims 24 and 28 the term "said rear wall" has no antecedent basis.

### ***Claim Rejections, - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit:

Claims 15, 18, 19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wade in view of Hunt. Wade teaches all the limitations of claim 15 except the case being attached inwardly of the first end of the sheet. Hunt teaches a case 26 which is attached inwardly of a first end of a sheet 12, with the openable end facing the top edge. It would have been obvious in view of Hunt to one of ordinary skill in the art at the time the invention was made to make the case of Wade attached inwardly of the first end of the sheet for the purpose of allowing it to better function as a pillow, should it be used in that manner. Wade teaches all the limitations of claim 18 except one pocket located adjacent each longitudinal edge. It would have been obvious to one of ordinary skill in the art to put pockets on the other side of the sheet of Wade for the purpose of providing more usable storage space - this is mere duplication of existing structure. Regarding claim 19, Wade shows pockets substantially on longitudinal edges, extending away from the sheet. Regarding claims 21 and 22, Wade teaches carrying means, a strap, which is attached to the case adjacent the open end, as seen in Fig 2.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wade as modified regarding claim 15, and further in view of Silvestri. Wade as modified regarding claim 15 teaches all the limitations of claims 16 and 17 except slip cover pockets at the first and second ends of the sheet. Silvestri teaches a slip cover pocket at an upper or first end of a sheet for exactly the same purpose as in the instant invention. It would have been obvious in view of Silvestri to incorporate a slip cover pocket in the upper end of the sheet of Wade for the purpose of making the sheet more resistant to blowing away in windy conditions. Likewise, it would have

Art Unit:

been obvious in view of Silvestri to one of ordinary skill in the art at the time the invention was made to put a second slip cover pocket at a lower end of the sheet of Wade in order to further retain the sheet in the event of windy conditions.

Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wade, and further in view of Hunt and Silvestri. Wade teaches all the limitations of claim 25 except the case being attached inwardly of the first end of the sheet and a slip cover pocket at the first end of the sheet. Hunt teaches a case 26 which is attached inwardly of a first end of a sheet 12, with the openable end facing the top edge. It would have been obvious in view of Hunt to one of ordinary skill in the art at the time the invention was made to make the case of Wade attached inwardly of the first end of the sheet for the purpose of allowing it to better function as a pillow, should it be used in that manner. Silvestri teaches a slip cover pocket at an upper or first end of a sheet for exactly the same purpose as in the instant invention. It would have been obvious in view of Silvestri to incorporate a slip cover pocket in the upper end of the sheet of Wade for the purpose of making the sheet more resistant to blowing away in windy conditions. Regarding claim 26, it would have been obvious in view of Silvestri to one of ordinary skill in the art at the time the invention was made to put a second slip cover pocket at a lower end of the sheet of Wade in order to further retain the sheet in the event of windy conditions. Regarding claim 27, Wade teaches carrying means, a strap, which is attached to the case adjacent the open end, as seen in Fig 2.

Art Unit:

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wade as modified regarding claim 18, and further in view of Battistella and Buhot et al. Wade teaches all the limitations of claim 20 except the pockets all located inwardly of the longitudinal edges. Buhot teaches a pocket 3 inward of the edges of a beach towel. Hunt teaches a beach towel with pockets 22,24,26 which are inward of the edges. Battistella teaches a beach towel with pockets 12b located inward of the edges. It would have been obvious in view of any of these three references to one of ordinary skill in the art at the time the invention was made to put pockets inward of the edges on the sheet of Wade for any number of reasons, such as a more convenient access when in use. (It is also noted that were the pocket flap of Wade to be flipped up onto the chair rather than hanging down on the side, the pockets would technically all be located inwardly of the longitudinal edges.)

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wade as modified regarding claim 15, and further in view of Terrazas. Wade teaches all the limitations of claim 23 except a waterproof sheet attached to the bottom of the flexible sheet. Terrazas teaches a sheet with a waterproof layer for a similar purpose. It would have been obvious to one of ordinary skill in the art at the time the invention was made to put a waterproof layer on the bottom of the flexible sheet of Wade in order to protect the user from moisture on a chair.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wade as modified regarding claim 15, and further in view of Battistella. Wade teaches all the limitations of claim 24 except a flap extending from adjacent an open first end of the case. Hunt teaches a

Art Unit:

flap 48 which extends from adjacent an open first end of an analogous case. In Fig 3, Battistella teaches a flap 4 for a case 3 which extends from adjacent the opening. It would have been obvious to one of ordinary skill in the art at the time the invention was made, in view of either Hunt or Battistella, to make the flap extend from adjacent the opening of the case of Wade as modified for the purpose of better securing and protecting the contents inside the case.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wade as modified regarding claim 25, and further in view of Battistella. Wade teaches all the limitations of claim 28 except a flap extending from adjacent an open first end of the case. Hunt teaches a flap 48 which extends from adjacent an open first end of an analogous case. In Fig 3, Battistella teaches a flap 4 for a case 3 which extends from adjacent the opening. It would have been obvious to one of ordinary skill in the art at the time the invention was made, in view of either Hunt or Battistella, to make the flap extend from adjacent the opening of the case of Wade as modified for the purpose of better securing and protecting the contents inside the case.

### ***Response to Arguments***

Applicant's arguments filed January 10, 2002 have been fully considered but they are not persuasive. A collection of known features in an invention, all of the features doing what they are well known to do, does not necessarily confer patentability. All of the features claimed in the instant application are either taught by Wade, or would have been obvious modifications to Wade as suggested by the secondary references. It is submitted that no hindsight reasoning has been

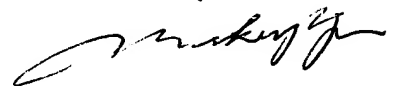
Art Unit:

used - the fact that multiple references have been applied in a 103 rejection in no way invalidates that rejection - the proper combination of multiple references, whether 2 or 5 in number, is the basis for a 103 rejection.

Any specific inquiries concerning this communication or earlier communications from the Examiner may be directed to Troy Arnold at (703) 305-0621. The Examiner can normally be reached Monday through Friday 9:30am - 5pm EST. Official responses may also be faxed directly to Tech Center 3700 at (703) 872-9302, and after final responses to (703) 872-9303. Questions of a general nature may be directed to the Group Receptionist at (703) 308-1148. Tech Center 3700 Customer Service may also be reached at (703) 306-5648.

Troy Arnold

February 22, 2002



Mickey Yu  
Supervisory Patent Examiner  
Group 3700